

ALTVIEW LAW GROUP, LLP
JOHN M. BEGAKIS (SBN 278681)
john@altviewlawgroup.com
12100 Wilshire Blvd., Suite 800
Los Angeles, California 90025
Telephone: (310) 230-5580
Facsimile: (562) 275-8954

SHERMAN LAW GROUP, LLP
RICHARD LLOYD SHERMAN (SBN 106597)
richard@shermanlawgroup.com
9454 Wilshire Blvd., Suite 850
Beverly Hills, California 90212
Telephone: (310) 246-0321
Facsimile: (310) 246-0305

Attorneys for Defendant/Counterclaimant HYPHY MUSIC, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

YELLOWCAKE, INC., California
corporation,

Plaintiff,

v.

HYPHY MUSIC, INC.,

Defendant.

Case No.: 1:20-cv-00988-JLT-BAM

[Assigned to the Hon. Jennifer L. Thurston]

**HYPHY MUSIC INC.'S OBJECTIONS
TO JESUS CHAVEZ, SR.'S EVIDENCE
PROFFERED IN SUPPORT OF HIS
MOTION FOR SUMMARY JUDGMENT**

HYPHY MUSIC, INC.,

Counterclaimant,

v.

YELLOWCAKE, INC.; COLONIZE
MEDIA, INC; JOSE DAVID
HERNANDEZ; and JESUS
CHAVEZ SR,

Counter-Defendants.

Date: September 29, 2023
Time: 9:00 a.m.
Dept.: Courtroom 4 (7th Floor)
2500 Tulare Street
Fresno, CA 93721
Judge: Hon. Jennifer L. Thurston

**HYPHY'S OBJECTIONS TO JESUS CHAVEZ'S EVIDENCE PROFFERED IN
SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure (“*FRCP*”) 56(c)(2), Defendant/Counterclaimant Hyphy Music, Inc. (“*Hyphy*”) hereby objects to the following evidence presented by Counter-Defendant Jesus Chavez, Sr. (“*Chavez*”), in connection with the Motion for Summary Judgment filed by Chavez (the “*Motion*”) and set to be heard before this Court. Chavez submits a declaration that makes a number of conclusory allegations unsupported by facts, and which are therefore insufficient to create a genuine issue of material fact. *Hansen v. U.S.*, 7 F.3d 137, 138 (9th Cir. 1993). A more specific detailing of the deficiencies in both declarations is as follows:

DECLARATION OF JESUS CHAVEZ, SR

1. Declaration of Jesus Chavez, Sr., ¶ 2, 3:1-2

Hyphy objects to the statement from Chavez that he is “the founder and principal of the band Los Originales de San Juan,” on the grounds that such statement is contradicted by Chavez’s deposition testimony. *Kennedy v. Allred Mutual Ins.*, 952 F.2d 262, 266 (9th Cir. 1991). This is the case because Chavez testified that, in reality, the Group operated as a co-equal partnership comprised of Chavez, accordion player Domingo Torres Flores, and drummer Alfonso Vargas. Chavez Depo I at 18:16-19:3, 20:8-16, 21:16-19. Hyphy also objects to such statement on the grounds that is conclusory. *Hansen*, 7 F.3d at 138.

2. Declaration of Jesus Chavez, Sr., ¶ 3, 3:3-4

Hyphy objects to the statement from Chavez that “[i]n or around 2013, I entered into an oral distribution agreement with Counterclaimant pursuant to which Counterclaimant agreed to distribute three albums to be recorded by the Band” on the grounds that such statement is conclusory. *Hansen*, 7 F.3d at 138.

3. Declaration of Jesus Chavez, Sr., ¶ 6, 2:14-15

Hyphy objects to the statement from Chavez that “I never entered into a written agreement with Counterclaimant agreeing to sell the entirety of all rights,

1 title, and interest in the Albums to Counterclaimant” on the grounds that such
2 statement is conclusory. *Hansen*, 7 F.3d at 138.

3 **4. Declaration of Jesus Chavez, Sr., ¶ 7, 2:16-17**

4 Hyphy objects to the statement from Chavez that “[i]n or around 2019, I sold
5 the entirety of all rights, title, and interest in the Albums to Counter-Defendant
6 YELLOWCAKE, INC. (“Yellowcake”) pursuant to a written agreement” on the
7 grounds that such statement is conclusory. *Hansen*, 7 F.3d at 138.

8 **5. Declaration of Jesus Chavez, Sr., ¶ 8, 2:18-20**

9 Hyphy objects to the statement from Chavez that “[d]uring that same time
10 period, I advised Counterclaimant of my sale to Yellowcake to ensure that
11 Counterclaimant would stop distributing the Albums that were subject to our oral
12 agreement” on the grounds that such statement is conclusory. *Hansen*, 7 F.3d at 138.

13 DATED: August 15, 2023

ALTVIEW LAW GROUP, LLP

14
15 By: 

16 JOHN M. BEGAKIS
17 *Attorneys for Defendant/Counterclaimant*
HYPHY MUSIC, INC., a California
18 corporation
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing electronically filed document has been served via a “Notice of Electronic Filing” automatically generated by the CM/ECF System and sent by e-mail to all attorneys in the case who are registered as CM/ECF users and have consented to electronic service pursuant to L.R. 5-3.3.

Dated: August 15, 2023

By: /s/ John Begakis
John M. Begakis